IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 2933 OF 2006.

1. Bhanudas @ Appa Prabhu Wagmode
2. Dhananjay Prabhu Wagmode
3. Gowardhan Narhari Jagdale
4. Santosh Khandu Dhass
5. Suresh Gautam Kamble
6. Datta Bhimrao Bhole .. Applicants.

V/s

The State of Maharashtra .. Respondent.

Mr. Shirish Gupte, Sr. Counsel i/b Mr. V.V. Purwant for the applicants.

Mrs. J.P. Akolkar for original complainant
Mr. S.S. Pednekar,A.P.P. for State.

CORAM : S.C. DHARMADHIKARI, J.

DATE : 24TH AUGUST, 2006.

P.C.

1. Heard Shri Gupte, the learned Senior Counsel for the applicant, Mr. Pednekar, the learned A.P.P. for the state and Mrs. Akolkar appearing for the original complainant.

2. Applicants are arrayed as accused in C.R. No. 79 of 2006 registered at Pangari Police Station for offences punishable under Sections 302, 307,325, 427,

147, 149, 506 of Indian Penal code. The applicants have been arrested in October, 2005 and are presently in custody.

3 Their applications for bail after the charge-sheet have been filed came to be rejected by the learned District and Sessions Judge at Solapur on 22nd May, 2006.

4. Mr. Gupte points out to me that in similar CR. two other accused applied for bail and this Court in Criminal Application NO. 2102/2006 have enlarged them on bail by imposing strict and stringent conditions. The applicants are also ready and willing to have such conditions imposed.

5. It is his submission that on account of the local elections the political rivalry between two political parties in the locality has led to the incident. His submission is that the statement of Rangnath was recorded on 23rd October, 2005. Inviting my attention to that statement he submits that the deceased Sarjerao and Rangthan were proceeding towards the poling booth and that is how there were conflicts

with the persons named in his first statement on 23rd October, 2005. He submits that the complainant has not named all the applicants as being involved in the assault and attack. However, in a supplementary statement recorded on 26th October, 2005 he alleges that some of the applicants are involved and it is alleged that they were carrying weapons and surrounded the deceased sarjerao and were threatening and abusing him. It is alleged that one of the applicants has assaulted the other witness Rajendra, who is nephew of the deceased Sarjerao. However, it is his submission that one Kerba Balbhim Dhass and Mahadeo @ Anna Namdeo Dhass have been enlarged on bail. The present applicants have not been named or in any event have been attributed identical role. In such circumstances, the applicants deserves to be released on bail not only on the grounds of parity but also because no prima facie case is made out against them.

6. On the other hand, Mr. Pednekar submits that the chart which is produced before me would indicate that one of the applicants had weapons which were used in the assault and attack. while it is true that the deceased and others have been assaulted and there is

nothing in so far as the statement of Ranganath which would indicate that deceased was assaulted, yet, offences alleged are serious. Considering the political rivalry between NCP and Shivsena at local level and the prosecution witnesses coming from the same village, this is not a fit case for enlarging the applicants on bail. More than six witnesses have been examined and trial is in progress. He submits that the applicant No.3 Govardhan has been named by one relation who has been charged with threatening the witness. In such circumstances, no case for any discretionary relief is made out, the application be rejected.

7. The original complainant's Counsel has invited my attention to the affidavit placed on record. She submits that as far as Govardhan (applicant No.3) is concerned, he has been convicted by this Court and his appeal is pending before the Hon'ble supreme Court. While enjoying liberty in pursuance of such interim direction he has taken part in the incident and therefore, considering his and others overt act and political rivalry in the area, so also the sensitive atmosphere this Court shall not entertain the present application.

8. After perusing the application and the annexures thereto including the statement of the material witnesses, the chart produced and affidavit of the original complainant I am of the view, that in Criminal Application NO. 2102/2006, this Court has discussed the prosecution case in brief and the role attributed to co-accused who are more or less identically placed. In fact Kerba and Mahadeo @ Anna who were applicants before this Court were named in the first statement and have been consistently named by other witnesses as well including nephew of the deceased, yet, this Court considered the entire facts and circumstances, thought it fit to enlarge them on bail. There are stringent conditions imposed and needless to state that any breach thereof would entail the bail being cancelled. However, nothing has been pointed out to me, which would be a distinguishing feature so as to deny bail on grounds of parity with the other accused. That apart, I have perused with the assistance of the learned Counsel appearing for both the sides, the statements and I find in the light of the political rivalry in the first and second statement of Rangnath when two persons were supposed to be proceeding towards booth the attack took

place. However, he does not name the applicants. . In the further statement recorded others are also been named . Pertinently, it is pointed out that the other complainant group belongs to Nationalist Congress Party, were as the applicants belong to shivsena. It is over choice of a candidate to whom they should vote that the entire dispute seems to have arisen. In such circumstances, with stringent conditions identical order can safely be passed. Apart from pointing out that there is a non-cognizable complaint pending against applicant No.3 and that he is enlarged on bail by the Hon'ble Supreme Court as far as other applicants are concernd nothing is pointed out. The applicant No.3 also can be prevented from entering the place as has been directd in the case of other accused by this court. Hence, the following order would serve the ends of justice.

. One of the condition is therefore, that they should be directed to stay out of Solapur district. In the circumstances, pending their trial in pursuance of C.R. No.79/2005 registered by the Pangari Police station, the applicants may be released on bail in the sum of Rs.15,000/- each with one surety each in the like

amount subject to condition that they will stay out of solapur District. Before being released on bail, they will furnish their addresses to the Jailor where they intend to stay and will report to the Station House Officer of the nearest police station once a week till the disposal of the trial. On being released on bail, they will also disclose their address to the investigating officer, Pangari Police Station, within a period of one week from the date of release. They will be entitled to enter Solapur town only on the dates when the trial is listed for hearing and for the purposes of attending the trial but even on these dates, they will not enter Barshi Taluka. It is clarified that these strict conditions are imposed not withstanding the fact that one of the accused is said to be 50 years of age. The other objective of passing this order is also to grant protection to the witnesses who hail from the same village so that the witnesses may not be tampered. It is made clear that violation of any of the condition would result in cancellation of bail. Application stands disposed off.

(S.C. DHARMADHIKARI, J.)